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(1919, MONTANA SESSION LAWS SIXTEENTH LEGISLATIVE ASSEMBLY, EXTRAORDINARY SESSION, c. 21). An injunction was asked against the enforcement of the act. *Held*, that the act is unconstitutional. *Holter Hardware Co. v. Boyle*, the District Court of the United States for the District of Montana, No. 149 (January, 1920).

For a discussion of this case, see NOTES, p. 838, *supra*.

CONSTRUCTIVE TRUSTS — MISTAKE OF FACT — MONEY LOANED IN IGNORANCE OF THE PREVIOUS INSTITUTION OF BANKRUPTCY PROCEEDINGS AGAINST THE BORROWER. — The defendant was appointed receiver in bankruptcy for a debtor. The next day the plaintiff loaned the debtor £1000, neither party knowing of the receiving order. The money came to the hands of the defendant, and the plaintiff applied for an order requiring the defendant to return the money. *Held*, that the order be made. *Re Thellusson*, 122 L. T. R. 35 (Court of Appeal).

It is occasionally asserted that the courts will require court officers to act strictly in accordance with honesty and fairness irrespective of the obligations of private litigants in similar circumstances. *Ex parte James*, 9 Chan. App. 609; *Ex parte Simmonds*, 16 Q. B. D. 308; *Gillig v. Grant*, 23 App. Div. 506, 49 N. Y. Supp. 78. Thus court officers are not allowed to take advantage of the anomalous rule that money paid under a mistake of law cannot be recovered. See 32 HARV. L. REV. 283. Under the influence of this line of thought, the court in the principal case avoided a discussion of the rights of the parties. But it would seem that this reasoning assumes the point at issue, for surely the receiver should not be held to an ethical standard inconsistent with the rights of the creditors whom he represents. However, as between the creditors and the plaintiff, the latter is entitled to the money. For money paid under a mistake of fact becomes subject to a constructive trust and can be followed as long as it can be identified into the hands of all but a *bona fide* purchaser. *In re Berry et al.*, 147 Fed. 208. See 3 POMEROY, Eq. JURIS., 4 ed., §§ 1047, 1048.

It is true that ordinarily a man's financial condition is an extrinsic fact, ignorance of which is no ground for equitable relief. *Dambmann v. Schulting*, 75 N. Y. 55; *In re Hunter-Rand Co.*, 241 Fed. 175. But in the principal case the mistake involved more than the risk of insolvency assumed in every transaction. By the provisions of the English Bankruptcy Act the plaintiff's claim against the debtor is postponed until all the debtor's assets have been applied to claims existing at the date of the receiving order. See ACT 4 & 5 GEO. V., c. 59, § 30. The question is one of degree. See WILLISTON, SALES, § 656. It is submitted that equity should allow recovery to prevent a gratuitous addition, at the plaintiff's expense, to the fund available to creditors.

CORPORATIONS — LIABILITY OF STOCKHOLDER UPON SUBSCRIPTION-CALLS — WHETHER DATE OF PAYMENT NECESSARY FOR VALIDITY OF RESOLUTION FOR A CALL. — The plaintiff corporation sued the defendant stockholder to recover the amount of a call made in respect of the defendant's shares. The defense was that the resolution of the board of directors for the call fixed no date upon which it should be payable. *Held*, that the action be dismissed. *Canadian Motor Sales Corp., Ltd. v. Wilson*, [1920], 1 W. W. R. 282 (Saskatchewan).

In the English cases, upon the authority of which the court rested its decision, either the articles of association or a statute required the resolution to specify the date of payment of the call. *In re Cawley & Co.*, 42 Ch. D. 209; *Johnson v. Lyttle's Iron Agency*, 5 Ch. D. 687. But in the principal case there was no intimation that such a provision was contained in any statute, in the articles of association, or in the subscription agreement. The doctrine propounded, therefore, seems to be that a resolution for a call is invalid, as a